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SUBJECT: SERBIA: DSS CHALLENGES CALL FOR PRESIDENTIAL ELECTIONS

REFS: A. Belgrade 1657 B. Belgrade 1504 C. Belgrade 1552

Summary

1. (SBU) The Democratic Party of Serbia publicly challenged the December 12 call for presidential elections by Serbia's Parliament Speaker Oliver Dulic. Other parties, however, including those in the opposition, support the election timeframe. Dulic defended his actions and said that any challenge should go to the Constitutional Court. The legal situation is increasingly murky, causing fractures within the coalition government, and may be the first test for the newly appointed Constitutional Court, if an official challenge is ever filed. In the end, however, momentum appears to be moving towards holding the elections as Dulic announced. End Summary.

DSS Challenge

2. (U) The Democratic Party of Serbia (DSS) publicly challenged the constitutionality of Dulic's December 12 announcement, which called for presidential elections to be held on January 20, 2008. Milos Aligrudic, Member of Parliament and Vice President for the DSS, while speaking on the Assembly floor on December 13, accused Dulic of violating the Constitution. The DSS maintains that the Constitutional law requires presidential elections to be called no later than 60 days after laws related to the presidential elections and presidential powers go into effect and noting that all of these laws would not be in effect for a few more weeks. (Laws are in force and effect eight days after publication in the Official Gazette.) The DSS has yet to file a legal challenge to Dulic's call for elections, and is currently considering its next action; however, Aligrudic said no action would be taken before the December 19 UNSC session on Kosovo.

3. (SBU) Dulic, addressing the Assembly on December 13, rejected claims that he had violated the Constitutional law and said any challenges should go to the Constitutional Court. Supporters of Dulic say the Speaker acted appropriately by calling for elections, since the Constitutional law also stipulates a deadline of December 31 for calling elections. University of Belgrade Law Professor and member of Dulic's Democratic Party (DS), Dragor Hiber, told poloff that Dulic did not violate any constitutional provision since he called elections before December 31. The B92 media outlet reported that law professor (and another DS member) Stevan Lilic said Dulic's decision respected the intent of the law -- that Serbia needed presidential elections.

Most Other Parties Support Election Date

4. (SBU) In addition to the DS, Dulic's announcement has the support of all other major parties, the Speaker's foreign affairs advisor, Lidija Bartus, told poloff December 13. President Boris

Tadic (DS) said the decision to call elections would not endanger the DS-DSS ruling coalition or create a government crisis, media reported on December 13. Media also reported that the G17 Plus, Liberal Democratic Party, and Serbian Radical Party would give their support for January 20 elections. Liberal Democratic Party (LDP) MP Ivan Andric told poloff on December 13 that even though Dulic may have violated the constitutional law, the LDP probably would not challenge the decree and would support elections. In addition to the DSS, New Serbia Party (and DSS partner), and the Socialist Party of Serbia (SPS) have opposed the election announcement.

Who Decides?

15. (SBU) Jurisdiction to resolve this dispute is still unclear. Serbia's newly reconstituted Constitutional Court, which has yet to officially meet, may not have purview over this matter, since it involves a decree, not a law or act, and it may pass to the Supreme Court to decide. Alternatively, the parliamentary constitutional committee may weigh in. Marko Blagojevic, Executive Director of the Center for Free Election and Democracy (CeSID) and prominent elections expert told poloff on December 13 that the legal situation was "unclear." Blagojevic agreed with DSS that the laws must be in effect before taking a decision on elections. One more wrinkle, according to Blagojevic, was that the law on the military, one among the body of laws at issue, was written to come into effect on January 1, 2008.

Comment

16. (SBU) The long-anticipated call for elections has evoked the predictable political and constitutional wrangling which may serve as the first challenge to the Constitutional Court. As of now, however, the arguments for and against the calling of elections

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remain solely in the public media circles, since the DSS is still deciding its next move. Ultimately, the dispute will likely be resolved through backchannels, as has happened in the past, avoiding the courts and Assembly, in order to reach a solution that maintains the government coalition throughout the Kosovo status process. End Comment.

MUNTER